IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

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**WRIT PETITION NO : 18678 of 2005**

Between:

Vishnu Srinivas Pendyala,

s/o late Srinivas Rao,

r/o 1000 Escalon Ave # 1057,

Sunnyvale, CA 9085 USA.

**..... PETITIONER**

AND

1. The Passport Authority,

Passport Office, D.No.8-2-215 to 219,

Adjacent to Prashanth Theatre,
Kummarguda, Secunderabad.

2. The Superintendent,

Regional Passport office,

Passport office, D.No.8-2-215 to 219,

Adjacent to Prashanth Theatre,

Kummaruda, Secunderabad.

**...RESPONDENTS**

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**ORDER:**

Declaring the action of the respondent No.2 in impounding the passport of the petitioner bearing No.V400189 dated 05-10-1995 under Section 10 (3)(e) of the Passport Act, communicated to the petitioner by a letter No.30 (368) Pol/04 dated 11.8.2005 as illegal and arbitrary, the present writ petition has been filed.

2. The learned counsel for the petitioner contended that taking cognizance is the criteria for coming to the conclusion that the case is pending against any person so as to impound the document under

Section 10(3)(e) of Passports Act, and mere registration of the case does not confer any right on the Passport Officer to impound the document. He placed strong reliance on the decision of the Division Bench of Calcutta High Court in **Abhijit Sen V. Superintendent (Administration) Regional Passport Officer, Kolkata and others**.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for Central Government appearing for the respondents.

4. A show cause notice was given to the petitioner herein as to why the passport should not be impounded for not giving information with regard to pendency of the criminal case. No explanation was given by the petitioner as seen from the impugned proceedings. However, the learned counsel for the petitioner made available a copy of the postal receipt. It is not known whether the explanation of the petitioner has been received by the appropriate authority. The proceeding that has been referred to in Section 10(3)(e) of the Passport Act is a proceeding in respect of an offence pending before a criminal court. It is a ground for impounding a document. Whether criminal case is pending or whether taking cognizance is the criteria for the purpose of noting the pending of the criminal case, are required to be decided by the authority competent who passed the impugned order. For the show cause notice the petitioner has not been given explanation. The authority, which passed the impugned order, has not been challenged saying that he has no authority. After giving reasonable opportunity to the petitioner to show cause, the present impugned order is passed. Therefore, principles of natural justice has not been violated. It is not a case of violation of any provisions of the Constitution of India.

5. Admittedly, a statutory appeal lies against the impugned order before the Chief Passport Officer, Passport Division, Ministry of

External Affairs, Patialal House Annexe, Tilak Marg, New Delhi. Therefore, the writ petition is disposed of directing the petitioner to avail statutory remedy available under law. All the contentions raised in the writ petition are left open.

**K.C.BHANU,J.**

Date: 29th August 2005.

Note:

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Issue CC by tomorrow.

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